

FILED

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION

99 AUG 23 AM 8:25

U.S. DISTRICT COURT  
N.D. OF ALABAMA

NANCY FOSTER, individually )  
and as parent and next friend )  
of BILLIE JOE FOSTER, )

PLAINTIFF, )

VS. )

ROBERT SWAIN, in his )  
individual capacity, )

DEFENDANT. )

CV99-H-836-E

*JMK*  
ENTERED

AUG 23 1999

MEMORANDUM OF DECISION

On April 7, 1999 plaintiff filed a complaint, including as a defendant Robert Swain. The effort to serve Swain by certified mail was returned undelivered by the postal service to the court on April 12, 1999. The May 4, 1999 order advised plaintiff that any defendant not served by August 16, 1999 would be dismissed, without further notice to plaintiff, unless prior to such time good cause had been shown why service had not been made. The May 21, 1999 memorandum of decision<sup>1</sup> pointed out to plaintiff that the court file did not reflect service of process on Swain. The court file as of this day still does not reflect such service.

A separate order of dismissal will be entered.

DONE this 23<sup>rd</sup> day of August, 1999.

*Jane H. Janash*  
SENIOR UNITED STATES DISTRICT JUDGE

<sup>1</sup> Which resulted in an order eliminating the only other defendant from this action by a partial final judgment. 13